

REMARKS

The above-identified application has been carefully reviewed in light of the office action mailed September 28, 2006. A request for a two month extension of time, and the required fee, is submitted herewith extending the period for response to and including February 28, 2007.

Applicants have repeatedly attempted to request an interview concerning this application. In a telephonic voice mail on or about November 30, 2006 Examiner Marmor indicated to Applicants' representative that this application was being transferred to Group Art Unit 2873. Applicants' representative was also informed that the SPE for this Art Unit was Examiner Mack. Applicant's representative then contacted Examiner Mack, who indicated that Examiner Hung Dang is now handling this application. Although telephone messages were left with Examiner Hung on a number of separate occasions in December 2006 and January 2007, no return telephone call was ever received from the Examiner.

For this reason, a Request for Continued Examination (RCE) is submitted together with this Amendment.

Substantive Matters

Despite the amendments to the claims made in the last reply, the previous Examiner maintained his rejections of claims 34-50 pursuant to 35 USC §103(a) in view of Hosoi (US Patent No. 5,956,121) and Kennedy (US Patent No. 6,523,954). Applicants

have carefully studied the Examiner's remarks, and traverse this rejection for the following reasons.

The present claims are directed to methods of conducting comprehensive eye examinations from a diagnostic center located in a remote location which diagnostic center does not contain eye examination devices. As understood by persons of ordinary skill in the art and as is apparent from the specification of the above-identified application, a comprehensive eye examination is an eye examination which permits a licensed eye care practitioner to provide a diagnosis and a prescription, if necessary. This is in contrast to an eye screening which merely screens for the presence of an eye disorder.

Hosoi is drawn to a telecommunication system for examining an eye and a related apparatus. In this system a plurality of identical eye examining units at different locations are linked by modem. Each of such eye examining units has a testing device for testing visual performance, a sending device for sending data received from the testing device to another identical eye examining unit, a receiving device for receiving the data transmitted from another identical eye examining unit, and an instruction device for giving instructions to the testing device of another identical eye examining unit.

It is therefore integral to the system of Hosoi that each location contains an identical eye examination unit. Moreover, each identical eye examination unit must be acting as a diagnostic center when the "skilled [eye] examiner" uses the eye examining unit to "see the state of the target which is being represented"; column 5, line 48. The Hosoi apparatus is said to

solve the problem that "in the process of a subjective examination to prescribe a spectacle lens different results are easily obtained depending on the examiner's experience in, or knowledge of, optometry" column 1, lines 15-23.

The previous Examiner responded to the limitation that the diagnostic center used in the methods of the present invention must be located in a "remote location" at which the diagnostic center does not include eye examination devices by focusing on the term "remote". For example, the previous Examiner pointed out that the present application states that "the remoteness of the location may comprise the distance of a room, or may include a distance of many thousands of miles." See Office Action of September 28, 2006 at page 4.

However, with respect, this emphasis mistakes the actual differences between the apparatus of Hosoi and the methods of the present invention. Because the previous Examiner did not appreciate the differences between the Hosoi apparatus and the presently claimed methods, he overlooked the fact that the Hosoi apparatus cannot be used with the present methods, and thus Hosoi cannot and does not suggest the present methods, either alone or in combination with Kennedy.

Unlike Hosoi's apparatus, in the present methods the diagnostic center does not include eye examination devices. This can clearly be seen by reviewing the present specification at e.g., Figure 1, in which the diagnostic center 107 is located in a device containing a diagnostic algorithm. By contrast, the exam modules 101, 103 and 105 used in the present methods are

separate modules containing eye examination devices. Importantly, the present diagnostic center (which may be located in a device) is claimed as including no eye examination devices.

Once this fact is appreciated, it can be quickly seen that Hosoi does not disclose or even suggest a method wherein a licensed eye care practitioner is positioned at a dedicated diagnostic center including no eye examination devices which receives testing information from remote exam modules. To a large extent, since Hosoi teaches and even requires identical eye examination units each of which include eye examination devices and diagnostic capabilities, Hosoi clearly teaches away from the present invention which utilizes a diagnostic center including no eye examination devices.

Furthermore, Applicants have added new dependent claims 51 and 52 to further point out the differences between the present method and the apparatus of Hosoi. Hosoi is drawn to obtaining data "in the process of a subjective examination to prescribe a spectacle lens" column 1, lines 15-23. Thus, as the previous Examiner pointed out, the examination devices of the Hosoi apparatus are "a subjective refractive power measuring device, a target chart presenting device, an objective refractive power measuring device, and a lensmeter, that is, only those devices consistent with obtaining information for prescribing spectacle lenses. See Hosoi, column 2, lines 55-67.

The present claims are all drawn to a method in which a comprehensive eye examination is performed at the remote modules. The Merriam-Webster Dictionary defines the word comprehensive as "covering completely or broadly". See Merriam

Webster Online Dictionary

(<http://www.wordreference.com/definition/comprehensive>) (January 26, 2007). One of ordinary skill in the art with which the present application is concerned would understand that a comprehensive eye examination concerns much more than prescribing spectacle lenses, but also involves for example, glaucoma testing, retinal and visual field testing, and other ophthalmologic testing concerned with overall eye health.

Nothing in Hosoi discloses or suggests comprehensive eye examinations, and Hosoi's apparatus is only structured to provide refractive and lens prescription data, rather than comprehensive eye examinations.

Thus, in the newly added claims the remote eye examining devices comprise at least three devices selected from the group consisting of a tonometer, a visual field tester, a fundus camera, a retinal imaging system, a posterior segment imaging system, a biomicroscope, a corneal topographer, and either an automated refractor (claim 51) or a lensometer (claim 52).

Nothing in Hosoi suggests that the identical eye examination units of Hosoi would be able to successfully employ devices other than a subjective refractive power measuring device, a target chart presenting device, an objective refractive power measuring device, and a lensmeter.

Applicants recognize that the rejection has been made over Hosoi in view of Kennedy, and have spent most of the time discussing Hosoi. However, this is because Kennedy adds nothing material to the disclosure of Hosoi.

Kennedy discloses a system for eye screening; that is, detecting common diseases or abnormalities such as strabismus, myopia, hypermetropia, astigmatism, anisometropia, and opacities particularly in children, from among a large population, for example, of preschool or school-age children. Basically, an image of an eye is obtained at a remote location for each subject and digital data corresponding to that image is then 1) transmitted to a central facility, where the data are automatically 2) sent away from the central facility to a qualified reader for review and analysis. Following the review and analysis, the reader inputs the analysis data and 3) transmits the data electronically back to the central facility. The central facility then automatically tabulates the readers' analysis and generates a report which is then 4) transmitted to the patient. See Kennedy, column 2, lines 50-58. Furthermore, if the patient needs information about eye care professionals in the area, the system transmits a list of professionals in this area to the patient. *Id.* at column 13, lines 31-33.

It can thus be seen that nothing about Kennedy resembles the present methods. The present methods comprise a licensed eye care professional (not a "reader") at a diagnostic center receiving information from remote locations having eye examination devices, and the professional transmitting back a diagnosis and a prescription to the patient via a communications link before the patient leaves the eye exam module.

Kennedy is concerned primarily with obtaining statistical data and preliminary information concerning whether or not a patient has healthy eyes. The information transmitted back to

the patient simply informs the patient (or the patient's family) whether further care should be sought.

Kennedy requires at least 4 sets of information transfers. The present methods may be accomplished with two basic sets of information transfer; from the remote module to the diagnostic center, and the transfer of the diagnostic and prescription information back to the patient before the patient leaves the eye exam module.

Kennedy does not provide prescribing information, which is an important part of the present invention. However, as demonstrated above, this is far from the only point of distinction between Kennedy and the present invention.

The present application claims a very straightforward and efficient method of providing a comprehensive eye exam to a patient, transmission of the testing information to a licensed eye care professional working at a dedicated diagnostic center without eye examination devices, who then diagnoses and prescribes for the patient in "real time" by transmitting this information back to the patient before the patient leaves the remote module. The combination of Hosoi and Kennedy does not disclose, teach or even suggest the present methods. Moreover, nothing in the combination of Hosoi and Kennedy provides any motivation, incentive or reason for the person of ordinary skill in the art to conceive of the present invention without reference to the present patent application. As noted above, Hosoi actually teaches away from the presently claimed invention, and Kennedy differs so substantially from the present claims that it adds nothing to Hosoi.

For these reasons, applicant submits that each of the present claims is separately patentable over the prior art.

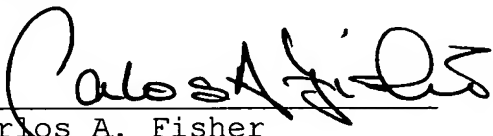
CONCLUSION

In conclusion, applicant has shown that the present claims are unobvious from and patentable over the prior art under 35 U.S.C. § 103. Therefore, applicant submits that the present claims, that is claims 34-52, are allowable and respectfully requests the Examiner to pass the above-identified application to issuance at an early date. Should any matters remain unresolved, the Examiner is requested to call applicant's attorney at the telephone number given below.

Respectfully submitted,

Date: _____

2/7/07


Carlos A. Fisher
Attorney for Applicant
Registration No. 36,510
4 Venture, Suite 300
Irvine, California 92618
(949) 450-1750
(949) 450-1764 Facsimile